

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN JOSE DIVISION

10 ADAPTIX, INC.,) Case No. 5:14-cv-02359-PSG
11 Plaintiff,) **CASE MANAGEMENT ORDER**
12 v.) **(Re: Docket No. 42)**
13 HTC CORPORATION, et al.,)
14 Defendants.)
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16 ADAPTIX, INC.,) Case No. 5:14-cv-02360-PSG
17 Plaintiff,) **CASE MANAGEMENT ORDER**
18 v.) **(Re: Docket No. 49)**
19 HTC CORPORATION, et al.,)
20 Defendants.)
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22 ADAPTIX, INC.,) Case No. 5:143-cv-02894-PSG
23 Plaintiff,) **CASE MANAGEMENT ORDER**
24 v.) **(Re: Docket No. 81)**
25 KYOCERA CORPORATION, et al.,)
26 Defendants.)
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1 ADAPTIX, INC.,) Case No. 5:14-cv-02895-PSG
2 Plaintiff,) CASE MANAGEMENT ORDER
3 v.) (Re: Docket No. 81)
4 KYOCERA CORPORATION, et al.,)
5 Defendants.)

6 Based on the parties' joint case management statement¹ and last week's case management
 7 conference,

8 IT IS HEREBY ORDERED that the following schedule and deadlines shall apply to all
 9 parties in this subset of cases ("Wave 3"):

11 Initial Case Management Conference	September 23, 2014
12 Initial Disclosures	October 3, 2014
13 Stipulated Protective Order	October 3, 2014
14 Plaintiff's Initial Disclosures of Asserted Claims & Preliminary Infringement Contentions & Accompanying Document Production	October 7, 2014
15 ESI Stipulation.....	October 24, 2014
16 Last Day to Join Parties/Amend Pleadings	October 31, 2014
17 Defendants' Preliminary Invalidity Contentions & Accompanying Document Production.....	December 5, 2014
18 Proposed Terms & Claim Limitations for Construction	December 19, 2014
19 Preliminary Claim Constructors	January 16, 2015
20 Deadline to Amend Pleadings re Inequitable Conduct Defenses	January 30, 2015
21 Joint Claim Construction & Prehearing Statement, Expert Declarations or Other Disclosures on Claim Construction for Any Experts Who Will Submit Declarations or Testify Regarding Claim Construction at the Claim Construction Hearing.....	February 3, 2015
22 Claim Construction Discovery Cut-Off.....	March 5, 2015
23 Opening Brief on Claim Construction.....	March 20, 2015

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1 Case No. 5:14-cv-02359: Docket No. 41.

1 Responsive Brief on Claim Construction April 10, 2015
 2 Reply Brief on Claim Construction April 20, 2015
 3 Surreply Brief on Claim Construction April 30, 2015
 4 Claim Construction (*Markman*) Hearing May 14, 2015 at 1:00 PM
 5 Fact Discovery Cut-Off September 18, 2015
 6 Opening Expert Witness Reports October 23, 2015
 7 Rebuttal Expert Witness Reports November 27, 2015
 8 Expert Discovery Cut-Off January 8, 2016
 9 Deadline to File Dispositive Motions February 4, 2016
 10 Opposition Briefs on Dispositive Motions February 25, 2016
 11 Reply Briefs on Dispositive Motions March 10, 2016
 12 Hearing on Dispositive Motions March 31, 2016 at 1:00 PM
 13 Pre-Trial Conference July 25, 2016 at 1:00 PM
 14 Initial Trial August 1, 2016 at 9:30 AM
 15 IT IS FURTHER ORDERED that the “Order Regarding Procedure for Resolution of
 16 Disputes Concerning Discovery and Other Non-Dispositive Issues” will apply in these cases.²

17 IT IS FURTHER ORDERED that except as necessary to comply with P.R. 3-7, the parties
 18 are not required to include in their privilege logs any protected documents that came into existence
 19 on or after January 13, 2012, which was the filing date of the complaint in the earliest-filed
 20 Adaptix case currently pending in this Court.

21 IT IS FURTHER ORDERED that at depositions where the deponent requires an interpreter,
 22 there shall be an official interpreter hired by the side taking the deposition if the deponent states
 23 under oath that he or she (i) is not able to understand and speak in English, and (ii) states under
 24 oath that he or she does not normally converse in English with others, including but not limited to
 25 work/business-related colleagues and third parties (such as in a work/business environment). The
 26 parties may hire their own interpreter to verify the translation by the official interpreter. Should the
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² See Case No. 5:13-01777, Docket No. 121.

1 party required to pay the costs of an interpreter ultimately prevail on the merits, the costs of hiring
2 an interpreter shall be taxed in favor of the prevailing party against the losing party.

3 IT IS FURTHER ORDERED that Verizon, AT&T and T-Mobile are precluded from
4 deposing any inventor or Plaintiff or Acacia employee previously deposed in one of the E.D. Tex.
5 or N.D. Cal. Adaptix actions, absent permission from this court upon a showing of good cause.

6 IT IS FURTHER ORDERED that Plaintiff may take a maximum of 160 hours of total fact
7 deposition testimony of Defendants with not more than 50 hours to depose any one Defendant.
8 Defendants may take a collective maximum 160 hours of total fact deposition testimony of Plaintiff
9 to be split according to agreement by Defendants.

10 IT IS FURTHER ORDERED that no individual inventor or co-inventor, including Dr. Liu,
11 shall be deposed for more than a total of 12 hours for all of these actions, collectively. To the
12 extent that the parties in these actions are also parties to the E.D. Tex. actions, those parties shall
13 cooperate to avoid redundant testimony of any individual 30(a)(1) or 30(b)(6) witnesses.

14 IT IS FURTHER ORDERED that in any other case to which a carrier defendant is a party,
15 Plaintiff may use for all purposes the transcript of depositions taken of that carrier defendant in any
16 other cases brought by Plaintiff.

17 IT IS FURTHER ORDERED that Plaintiff is precluded from deposing any Verizon, Sprint,
18 HTC, or AT&T employees or customers who have previously been deposed in one of the E.D. Tex.
19 or N.D. Cal. Adaptix actions, absent permission from this court upon a showing of good cause.
20 Verizon, Sprint, HTC, and AT&T shall coordinate the scheduling of any such depositions in the E.D.
21 Tex. and N.D. Cal. Adaptix actions so that these co-defendants have the opportunity to attend those
22 depositions.

23 IT IS FURTHER ORDERED that Defendants may use for all purposes in the above-
24 captioned cases the transcripts of depositions taken by any defendant in all other cases brought by
Plaintiff.

25 IT IS FURTHER ORDERED that Plaintiff may serve up to 20 requests for admission
26 collectively on Wave 3 Defendants and up to 15 additional individual requests for admission on
27 each Wave 3 Defendant or, where applicable, on each Wave 3 Defendant Group. Wave 3

1 Defendants shall be allowed 20 collective requests for admission and 15 additional individual
2 requests for admission per Defendant or, where applicable, per Defendant Group. Notwithstanding
3 the foregoing, the parties are allowed an unlimited number of requests for admission regarding the
4 admissibility of documents. Before serving any request for admission, regarding the admissibility
5 of documents, each party agrees to request that the opposing party stipulate to the admissibility of
6 such documents, but if after two weeks no stipulation is agreed upon, then the requesting party may
7 serve the request for admission.

8 IT IS FURTHER ORDERED that pursuant to Fed. R. Civ. P. 26(b)(4), draft expert reports,
9 notes, outlines, and any other writings leading up to expert final reports in the Wave 3 actions are
10 exempt from discovery. In addition, all communications with and all materials generated by a
11 testifying expert with respect to his work on any of these actions are exempt from discovery unless
12 relied upon by the expert in forming his or her opinion. If an expert produces a report, the expert
13 must produce his or her final report and all materials on which he or she relied.

14 IT IS FURTHER ORDERED that Plaintiff may depose each non-infringement expert for
15 seven hours. Each Wave 3 Defendant or Defendant Group may depose each infringement expert
16 testifying against it for seven hours in each matter where that expert is testifying against it.

17 IT IS FURTHER ORDERED that Plaintiff may depose each invalidity expert for seven
18 hours. Each Wave 3 Defendant or Defendant Group may depose each validity expert for seven
19 hours in each matter where that expert is testifying against it. If the same expert testifies against
20 Plaintiff or Defendant/Defendant Group regarding both (non)infringement and (in)validity, then
21 Plaintiff or Defendant/Defendant Group may depose that expert for 14 hours.

22 IT IS FURTHER ORDERED that Plaintiff or each Defendant/Defendant Group may
23 depose each damages expert testifying against it for 7 hours in each matter where that expert is
24 testifying against it.

25 IT IS FURTHER ORDERED that the parties shall confer in good faith on a reasonable
26 number of hours of other expert depositions and shall submit the parties' competing proposals to
27 the court in the event they are unable to reach agreement.

28 **IT IS SO ORDERED.**

1 Dated: September 29, 2014
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PAUL S. GREWAL
United States Magistrate Judge